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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 IN RE SUBPOENA ISSUED TO:
15 Intel Corporation

16 In the Case of:

17 QUALCOMM INCORPORATED,
18
19 Plaintiff,

20 v.

21 APPLE INCORPORATED,
22
23 Defendant.

Case No. 5:19-mc-80057-VKD

Related to Case Nos. 4:19-mc-80038-KAW
and 3:17-CV-02398-DMS-MDD (Pending
in the United States District Court for the
Southern District of California)

**DECLARATION OF MARK D.
SELWYN IN SUPPORT OF
QUALCOMM'S ADMINISTRATIVE
MOTION TO SEAL PURSUANT TO
CIVIL LOCAL RULES 79-5(E) AND
79-5(D)(1)(A)**

1 I, Mark D. Selwyn, declare as follows:

2 1. I am a partner at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP,
3 counsel for non-party Intel Corporation (“Intel”) in the above-captioned matter. I am licensed to
4 practice law in the State of California, Commonwealth of Massachusetts, and State of New York,
5 and am admitted to practice before the U.S. District Court for the Northern District of California.
6 I am familiar with the facts set forth herein and, if called as a witness, I could and would testify
7 competently to those facts under oath.

8 2. On March 29, 2019, pursuant to Civil Local Rule 79-5 and 79-11, Qualcomm
9 Incorporated (“Qualcomm”) filed an Administrative Motion to File Under Seal (Dkt. No. 23,
10 “Qualcomm’s Motion to Seal”) portions of its Reply in Support of its Motion to Compel
11 Compliance With Document Subpoenas to Intel (Dkt. No. 24, “Qualcomm’s Reply”) and an
12 accompanying exhibit attached thereto that reference, quote, or were derived from Intel’s
13 confidential information.

14 3. Portions of Qualcomm’s Reply and an accompanying exhibit reference, quote, or
15 are derived from Intel documents or deposition testimony that contain Intel product information
16 that Intel has designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS
17 EYES ONLY” or “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY”
18 under the Protective Order and Supplemental Protective Orders in Case No. 3:17-CV-02398-
19 DMS-MDD (S.D. Cal.).

20 4. Intel keeps certain technical details about its products strictly confidential to avoid
21 injury to Intel through the disclosure of confidential information. Disclosure of such technical
22 details would put Intel at a competitive disadvantage by informing competitors about how Intel’s
23 products are designed and operate and could harm Intel and its business partners.

24 5. Excerpts from the deposition of Werner Schelmbauer (Exhibit AA to the
25 Summers Declaration in Support of Qualcomm’s Reply), which Qualcomm sought to seal in its
26 entirety, contain competitively sensitive technical details and information about Intel product
27 functionality. Rather than moving to seal Exhibit AA in its entirety, Intel has attached a copy
28

1 with narrowly tailored proposed redactions (marked by red boxes) of Intel's confidential
2 information on pages 3-16.

3 6. Qualcomm's Reply, which Qualcomm sought to seal in part, contains
4 competitively sensitive technical details and information about Intel product functionality, and
5 Intel has attached a copy with narrowly tailored proposed redactions (marked by red boxes) on
6 pages 5-7 and 14, which in some cases—but not all—overlap with Qualcomm's proposed
7 redactions.

8 I declare under the penalty of perjury under the laws of the United States that the
9 foregoing is true and correct to the best of my knowledge.

10 Dated: April 1, 2019
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13 By: /s/ Mark D. Selwyn
14 Mark D. Selwyn
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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2019, I caused the above document to be filed via the ECF system and emailed to all attorneys of record.

By: /s/ Mark D. Selwyn
Mark D. Selwyn